

**STATE OF MICHIGAN**  
**DEPARTMENT OF LABOR & ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

In the matter of

XXXXX

Petitioner

File No. 91059-001-SF

v

Blue Cross Blue Shield of Michigan  
Respondent

/

Issued and entered  
this 9<sup>TH</sup> day of September 2008  
by Ken Ross  
Commissioner

**ORDER**

**I**  
**PROCEDURAL BACKGROUND**

On July 18, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under Public Act No. 495 of 2006 (Act 495), MCL 550.1951 *et seq.* The Commissioner reviewed the request and accepted it on July 25, 2008.

Under Section 2(2) of Act 495, MCL 550.1952(2), the Commissioner conducts this external review as though the Petitioner was a covered person under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.*

The Commissioner notified Blue Cross Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on August 1, 2008.

The Petitioner is enrolled for health coverage through the XXXXX, which is a self-funded group. BCBSM administers the plan.

The issue in this external review can be decided by a contractual analysis. The contract involved here is the Master Medical Supplemental Benefit Certificate Catastrophic Coverage Plan Option 3 (“certificate 1”) and the Professional Services Group Benefit Certificate (“certificate 2”). The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

## **II FACTUAL BACKGROUND**

From July 1, 2007, through May 1, 2008, the Petitioner received various dental services such as: evaluation, x-rays, root canals, prophylaxis, and composite fillings. BCBSM denied coverage for this care beyond the Petitioner’s \$1,000.00 annual dental benefit. The amount in question is \$2,376.00.

The Petitioner appealed BCBSM’s denial. BCBSM held a managerial-level conference on June 26, 2008, and issued a final adverse determination dated June 30, 2008.

## **III ISSUE**

Is BCBSM required to pay for the Petitioner’s dental care provided from July 1, 2007 through May 1, 2008?

## **IV ANALYSIS**

### **Petitioner’s Argument**

The Petitioner underwent 35 intensive radiation treatments to combat cancer in his right tonsil and lymph gland. When the radiation ended in July 2007, the Petitioner began receiving dental care necessitated by the radiation, including three root canals and associated dental work.

The Petitioner considers the damage to his teeth an “accidental injury” caused by an external force and therefore should be covered under his certificate 1 -- he wants BCBSM to cover the cost of his dental treatment as a medical benefit.

### BCBSM's Argument

BCBSM says that dental care coverage is limited under both certificates. Certificate 1 pays for dental care only to treat accidental injuries. An accidental injury is defined in the certificate as when "an external force to the lower half of the face or jaw damages or breaks sound natural teeth, periodontal structures (gums) or bone." It also states that it pays for emergency dental treatment within 24 hours of the accidental injury to relieve pain and discomfort, and that follow-up treatment must be completed within six months.

Certificate 2 indicates that it only pays for dental surgery for:

- Multiple extractions or removal of unerupted teeth, alveoplasty or gingivectomy performed in a hospital when the patient has an existing concurrent hazardous medical condition.
- Surgery on the jaw joint.
- Arthrocentesis performed for the reversible or irreversible treatment of jaw joint disorders.

BCBSM argues that these certificates are primarily for medical and surgical care and not dental treatment and that the Petitioner's dental care treatment does not meet the criteria for coverage under either certificate 1 or 2.

### Commissioner's Review

The Petitioner has a separate dental care benefit that is limited to \$1,000.00 per year. When the treatment he required following his radiation treatment exhausted that benefit, he sought coverage for the balance of the charges as medical care under his Master Medical or Professional Services certificates. However, those certificates cover dental care only in very limited circumstances and the Commissioner concludes that the Petitioner's dental care does not qualify for coverage.

Under certificate 1, BCBSM will pay for dental care that is required because of an accidental injury. However, damage to teeth caused by radiation therapy to treat cancer does not meet the certificate's definition of accidental injury. Moreover, certificate 1's provision for dental care comes

under the caption of “Emergency Dental Treatment,” and the Petitioner’s dental services, completed over the period of nearly a year, were not done on an emergency basis.

Certificates 1 and 2 also pay for dental treatment that is required to be performed in a hospital because of a concurrent medical condition. However, the Petitioner’s dental care was not done in the hospital so those sections do not apply.

The Commissioner finds that the Petitioner’s dental care is not a benefit under either certificate 1 or 2 since it does not meet the criteria for covered dental care set forth in those certificates.

## **V ORDER**

BCBSM’s final adverse determination is upheld. BCBSM is not required to pay for the Petitioner’s dental care under either certificate 1 or 2.

This is a final decision of an administrative agency. Any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. See MCL 550.1915(1), made applicable by MCL 550.1952(2).

A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.